

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**AVERY JACKSON, individually and
on behalf of all others similarly situated,**

Plaintiff,

vs.

**VAN KAMPEN SERIES FUND, INC.,
et al.,**

Defendants.

**Case No. 06-cv-944-DRH
Consolidated with Case No. 06-cv-994-DRH**

ORDER

HERNDON, District Judge:

This matter is before the Court on the motions for remand to state court based on procedural defects in removal brought by Plaintiff Avery Jackson (Doc. 8, Doc. 10), Plaintiff's motion for remand to state court for lack of federal subject matter jurisdiction (Doc. 19), the motion to dismiss brought by Defendants Van Kampen Series Fund, Inc., and Van Kampen Investment Advisory Corp. (Doc. 12), and Defendants' motion for an enlargement of time to answer or otherwise plead to Plaintiff's complaint (Doc. 4). On May 24, 2007, the Court stayed these proceedings pending resolution of appeals from orders granting remand entered in *Dudley v. Putnam Investment Funds*, Case No. 06-cv-940-GPM (S.D. Ill. filed Nov. 14, 2006), and *Potter v. Janus Investment Fund*, Case No. 06-cv-929-DRH, Case No. 06-cv-997-DRH (S.D. Ill. filed Nov. 13, 2006), and from an order of dismissal in *Spurgeon v. Pacific Life Insurance Co.*, Case No. 06-cv-983-MJR, Case No. 06-cv-925-MJR (S.D. Ill. filed Nov. 28, 2006). See *Jackson v. Van Kampen Series Fund, Inc.*, Nos. 06-cv-944-DRH, 06-cv-994-DRH, 2007 WL 1532090 (S.D. Ill.

May 24, 2007). Those appeals now have been resolved. *See In re Mutual Fund Market-Timing Litig.*, Nos. 07-1695, 07-2244, 07-2053, 07-2142, 2007 WL 2012390 (7th Cir. July 13, 2007). Accordingly, the stay is **LIFTED**. Plaintiff's motion for remand based on lack of subject matter jurisdiction is **DENIED**. *See Potter v. Janus Inv. Fund*, 483 F. Supp. 2d 692, 695-703 (S.D. Ill. 2007). Plaintiff's motion for remand based on procedural defects in removal is **GRANTED**. *See Dudley v. Putnam Inv. Funds*, 472 F. Supp. 2d 1102, 1107-13 (S.D. Ill. 2007). Pursuant to 28 U.S.C. § 1447(c) this matter is **REMANDED** to the Circuit Court of the Third Judicial Circuit, Madison County, Illinois, by reason of untimeliness of removal. Defendants' motion to dismiss and motion for an enlargement of time are **DENIED as moot**.

IT IS SO ORDERED.

Signed this 17th day of July, 2007.

/s/ David RHerndon
United States District Judge